

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

JOHN C. DEPP, II,

Plaintiff and Counter-defendant,

v.

AMBER LAURA HEARD,

Defendant and Counter-plaintiff.

Civil Action No.: CL-2019-0002911

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FAIRFAX, VA

**DEFENDANT AMBER LAURA HEARD'S SUPPLEMENTAL PLEA IN BAR**

Pursuant to Rule 3:8 of the Rules of the Virginia Supreme Court, Defendant Amber Laura Heard ("Ms. Heard"), by counsel, hereby submits her Supplemental Plea in Bar to Plaintiff John C. Depp, II's ("Depp") Complaint on the following grounds:

1. Depp filed his Complaint in this action against Ms. Heard on March 1, 2019. The three claims are based on his allegation that the statements respecting Ms. Heard's claims of being the victim of domestic abuse and sexual violence (that Depp claims mean at the hands of Depp), published in an Op-Ed in the *Washington Post*, are false.

2. On November 2, 2020, the High Court of Justice Queens Bench Division (the "UK High Court"), the UK's trial court, issued its judgment dismissing a claim for libel brought by Mr. Depp, in the case of *Depp v. News Group Newspapers, LTD, et al.*, QB-2018-006323 (the "UK Case"). Att. A to Notification of Judicial Notice of Adjudicated Facts and Law Impacting this Case ("JN").

3. The claim in the UK Case arose out of an article published in *The Sun* which referred to Depp as a "Wife-Beater" and alleged he had committed multiple acts of domestic

violence, placing Ms. Heard in fear for her life. **Att. A** to JN; Depp's Particulars of Claim, June 13, 2018. **Att. 1** hereto.

4. After extensive discovery and motions practice, a trial was held over a three-week period. On November 2, 2021, in a 129-page, 585 paragraph Opinion, the UK High Court found that Depp failed to prevail on his libel claim because the statements were substantially true and that Depp committed domestic violence against Ms. Heard on at least 12 occasions, at times causing Ms. Heard to fear for her life. **Att. A** to JN.

5. Depp requested permission to appeal. By Order dated November 16, 2020, the UK High Court denied Mr. Depp permission to appeal. **Att. B** to JN.

6. On March 25, 2021, the Court of Appeal (Civil Division) in the United Kingdom (the "UK Court of Appeal") upheld the UK High Court's ruling against Depp, denied his application for permission to appeal, and dismissed his application to adduce further evidence. **Att. C** to JN.

7. On March 31, 2021, amended on April 6, 2021, the UK Court of Appeal issued its final Order denying the two applications. (Collectively, the four UK decrees shall be referred to as the "UK Judgments"). **Att. D** to JN. The UK Judgments are now final and Depp has fully exhausted his rights to appeal.

8. Depp's claims in this Court against Ms. Heard are now barred under the doctrines of comity, collateral estoppel, issue and claim preclusion and res judicata. *See Lee v. Spoden*, 290 Va. 235, 245 (2015) ("Res judicata encompasses four preclusive effects, each conceptually distinct, which a final personal judgment may have upon subsequent litigation. These are merger, direct estoppel, bar, and collateral estoppel," which can be "divided into two categories: claim preclusion and issue preclusion.").

9. Under the doctrine of comity, this Court should recognize the U.K. Judgments, giving them “full effect.” The UK Judgments were rendered on the merits after hearing evidence from Ms. Heard and Depp, and many other witnesses, in a “fair trial before a court of competent jurisdiction, conducting the trial upon regular proceedings.” *Hilton v. Guyot*, 159 U.S. 113, 202-203 (1895). The merits of the UK Judgments should not “be tried afresh,” and Depp’s claims must be precluded. *Id.*; see also *Clark v. Clark*, 11 Va. App. 286, 298-99 (Va. Ct. App. 1990) (“Comity envisions giving recognition or preclusive effect in the forum state to matters previously litigated in a foreign jurisdiction when the issues involved are res judicata: when the final decree or order entered in the former proceeding was entered on the merits.”) (internal citation and quotations omitted).

10. The UK Judgments should also be recognized under the Uniform Foreign-Country Money Judgments Act and be “[e]nforceable in the same manner and to the same extent as a judgment rendered in the Commonwealth.” Va. Code § 8.01-465.13:1, *et seq.*

11. Giving full effect to the UK Judgments necessitates a finding that statements in the Op-Ed published in the *Washington Post* are true—Mr. Depp committed domestic violence against Ms. Heard on many occasions, causing her to fear for her life. Therefore, as a matter of law, Depp cannot prevail on any of his claims, and Depp’s Complaint against Ms. Heard should be dismissed in its entirety.

12. It is compellingly clear from the prior record in the UK Judgments that Depp has fully and fairly litigated—and lost—the same core issues of fact of whether he committed domestic violence against Ms. Heard, which was essential to the prior judgment. Depp is therefore collaterally estopped under rules of issue and claim preclusion from asserting he did not physically abuse Ms. Heard, i.e. that the statements were false. See *Bates v. Devers*, 214 Va. 667, 670 (1974);

*see also Lane v. Bayview Loan Servicing, LLC*, 297 Va. 645, 654 (2019). Depp cannot relitigate these factual issues, and as a result of their preclusion, he cannot claim that the statements are false and “actionable” under Virginia defamation law, so his claims are barred as a matter of law.

13. Mr. Depp’s claims are likewise “forever barred” by the doctrine of res judicata under common law and Rule 1:6 of the Rules of the Virginia Supreme Court because the cause of action arises from “that same conduct, transaction or occurrence.” Rule 1:6. The two cases are based on the “same set of operative facts which, under the substantive law, may give rise to a right of action,” and Defendants in the U.K. case, and Ms. Heard, were in privity. *Id.*; *Lane*, 297 Va. at 654 (explaining that in the context of res judicata, “privity centers on the closeness of the relationship in question” and “deals with a person's relationship to the subject matter of the litigation.”).

14. Applying these doctrines also precludes a finding that the statements in the Op-Ed were made with knowledge or reckless disregard of falsity, since they were found to be true, so Ms. Heard is entitled to the immunity and relief afforded by Virginia’s Anti-SLAPP statute as a matter of law.

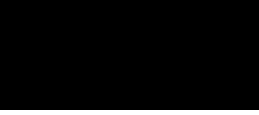
15. Ms. Heard will submit her Memorandum of Points and Authorities in Support in accordance with a briefing schedule set by the Court.

WHEREFORE, Defendant Amber Laura Heard, by counsel, respectfully requests that this Court recognize and apply the findings of the UK Judgments, dismiss Mr. Depp’s Complaint against Ms. Heard in its entirety and with prejudice, afford Ms. Heard the immunity of Virginia’s Anti-SLAPP statute under Va. Code § 8.01-223.2, and award her such other relief as this Court deems proper.

Dated this 13<sup>th</sup> day of April 2021

Respectfully submitted,

Amber L. Heard



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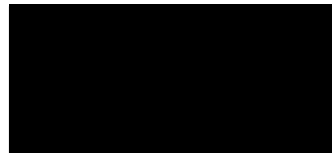
**CERTIFICATE OF SERVICE**

I certify that on this 13th day of April, 2021, a copy of the foregoing was served by email, pursuant to the Agreed Order dated August 16, 2019, as follows:

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IN THE HIGH COURT OF JUSTICE  
QUEEN'S BENCH DIVISION  
MEDIA AND COMMUNICATIONS LIST  
BETWEEN:



JOHN CHRISTOPHER DEPP II

Claimant

-and-

(1) NEWS GROUP NEWSPAPERS LTD  
(2) DAN WOOTTON

Defendants

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PARTICULARS OF CLAIM

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1. The Claimant is a world famous actor and producer more commonly known as Johnny Depp. The Claimant has appeared in over 80 films and television series, and decades of involvement with Make a Wish Foundation. He is resident in California USA. In February 2015 the Claimant married Amber Heard. The Claimant and Ms Heard divorced on 13 January 2017 having separated in May 2016.
2. The First Defendant is the publisher of *The Sun* newspaper, which has a daily circulation of over 1.9m and a much larger readership. The First Defendant is also the owner and publisher of *The Sun's* associated website [www.sun.co.uk](http://www.sun.co.uk) ("the Website"). The website is accessible by any user of the internet and is accessed by in excess of 5.3m unique browsers daily. The First Defendant's mobile platform has a reach in excess of 3.8m.

3. The Second Defendant is a journalist and was at all material times employed by the First Defendant. He is currently an Executive Editor of *The Sun*.
4. At all material times the First Defendant was vicariously liable for the actions of the Second Defendant.

### **The Online Article**

5. On or around 10pm on 27 April 2018 in an article headlined "*GONE POTTY How can JK Rowling be 'genuinely happy' casting wife beater Johnny Depp in the new Fantastic Beasts film?*" under the byline of and/or written by the Second Defendant, the Defendants and each of them published on the Website at the URL <https://www.thesun.co.uk/tvandshowbiz/6159182/jk-rowling-genuinely-happy-johnny-depp-fantastic-beasts/> the following words defamatory of the Claimant ("the Online Article"):

***"GONE POTTY How can JK Rowling be 'genuinely happy' casting wife beater Johnny Depp in the new Fantastic Beasts film?"***

*In his brand new column, Dan Wootton reveals the Harry Potter author is facing a significant backlash from the #MeToo movement over her decision to stand by the casting of Depp despite claims he beat ex-wife Amber Heard*

*By Dan Wootton, Executive Editor*

***[1] FOR a holier-than-thou Twitterati preacher, JK Rowling tries to present herself as a leading light for women in the entertainment industry.***

***[2] But the author will need to use every trick in Harry Potter's magic book to handle the growing outrage in Hollywood over her decision to stand by the***



*casting of Johnny Depp in the lead role in her precious Fantastic Beasts and Where To Find Them franchise.*

*[Photo Caption] JK Rowling has faced sharp criticism for backing Johnny Depp to star in her latest Harry Potter film.*

*[3] Today I reveal a significant backlash from within the #MeToo and Time's Up movement because the Scot is hellbent on backing her famous pal – despite his clearly inexcusable behaviour towards ex-wife Amber Heard.*

*[4] Rowling is proving herself to be the worst type of Hollywood Hypocrite here.*

*[5] Her claim that she is "genuinely happy" to have Depp star as the central character, dark wizard Gellert Grindelwald, in her big-budget film sequel Fantastic Beasts: The Crimes of Grindelwald provides him total rehabilitation in the eyes of the movie industry.*

*[6] She is condoning behaviour that she would be loudly slamming on social media if it was a male executive making the same decision.*

*[Photo Caption] Depp has been slapped with a restraining order after ex-wife Amber Heard produced evidence of domestic abuse*

*[7] So let me be very clear for the benefit of an apparently unaware Ms Rowling: Overwhelming evidence was filed to show Johnny Depp engaged in domestic violence against his wife Amber Heard.*

*[8] She was granted a restraining order after alleging Depp assaulted her following a drunken argument and submitted photographs to the court showing her bruised face.*

*[9] Heard – backed up by numerous friends on the record – recounted a detailed history of domestic abuse incidents, some of which had led to her fearing for her life. According to the court documents, there were kicks, punches, shoves and "all-out assault".*

*[10] While Depp's many high powered friends accused Heard of simply seeking a pay-out, she proved them wrong by committing to donate ALL of the £5 million she received to charity.*

*[Photo caption] However, he is set to star as Gellert Grindelwald in the latest Fantastic Beasts and Where to Find Them film*

*[11] If Rowling is the supporter of women's rights she claims, has she been blinded by a personal friendship with Depp?*

*[12] After all, she coveted him enough to have spent £22 million buying his old yacht, which he had ironically re-named for Heard.*

*[13] Rowling is a powerful figure, who likes to slaughter anyone who dares publicly question her morals or decisions.*

*[14] But today two brave members of Me Too/Time's Up – both victims of Harvey Weinstein – go public to question her decision.*

*[Photo caption] Amber Heard produced a huge amount of evidence outlining the abuse - including shocking pictures of bruising on her face*

*[15] In a message to Rowling, actress Caitlin Dulany says: "We would like to see things change in this industry and not see people who have allegedly victimised women.*

*[16] "It is not much of a change if you are seeing people rewarded with roles.*

*[17] "Amber has been through a difficult time with him. But it seems like what happened hasn't really affected Johnny.*

*[18] "We would like to see things change in this industry and this is an example of that not happening.*

*[19] "I would hope for different role models than someone who has that kind of history. It is important when you are casting."*

*[Photo caption] Fantastic Beasts: The Crimes of Grindelwald is the next instalment in the Harry Potter franchise*

*[20] Actress Katherine Kendall adds: "I don't stand behind hitting people or abusing people. It seems that Amber got hurt.*

*[21] "As someone who has been the victim of sexual abuse and a supporter of Me Too and telling my story to help others, I cannot advocate violence.*

*[22] "I think it is a confusing message to put people in roles that are aimed at children and young people if there is a suggestion they have done something of that nature."*

*[Photo caption] Fantastic Beasts and Where to Find Them, starring Eddie Redmayne, was a huge hit with fans - but should Johnny Depp star in its sequel?*

*[23] So today I publish five questions Rowling MUST answer:*

- 1. Do you take domestic violence accusations as seriously as sexual harassment given your support of the Me Too movement?*
- 2. If so, do you believe Amber Heard's detailed 2016 court filing detailing abuse allegations by Johnny Depp, which included pictures showing her injuries and on the record accounts by other witnesses?*
- 3. Why did Depp agree to pay £5 million as a settlement, including a confidentiality agreement, if there was no truth to the allegations?*
- 4. You admitted last year there were "legitimate questions" about Depp's casting. What were these and how did you overcome them?*
- 5. Heard appeared to suggest on Instagram that you had taken her divorce statement "out of context" in order to defend Depp's casting. Have you spoken to her directly?*

*[24] Warner Bros releases the Depp-fronted film in November.*

*[25] While Rowling has an inability to ever admit she's made a mistake, it's not too late for a last-minute re-cast. It would cost millions, but Rowling has the money.*

*[26] I believe it is the only decision that would show she's a woman of true character and principle, even when her famous friends are involved."*

6. The Online Article was published until around 7.58am on 28 April 2018 and then updated to remove the words "wife beater" and change the headline to "GONE POTTY How can JK Rowling be 'genuinely happy' casting Johnny Depp in the new Fantastic Beasts film after assault claim?" Thereafter the Online Article in its updated form continued to be published by the Defendants and each of them on the Website until at least the date hereof.
7. The Online Article was read by a very substantial number of readers in this jurisdiction. The second, third and fourth sentences of paragraph 2 above are repeated. The Claimant does not have website traffic data and is currently unable

to plead with any more particularity the extent of online publication. This information is in the possession of the First Defendant and if not pleaded in the Defence can be the subject of disclosure or evidence in the Proceedings.

### **The Hardcopy Article**

8. In the 28 April 2018 edition of *The Sun* under the headline “*How can JK Rowling be ‘genuinely happy’ to cast Depp after assault claim?*” under the byline of and/or written by the Second Defendant, the Defendants and each of them published the following words defamatory of the Claimant (“the Hardcopy Article”):

*“How can JK Rowling be ‘genuinely happy’ to cast Depp after assault claim ?*

*[1] FOR a holier-than-thou Twitterati preacher, JK ROWLING tries to present herself as a leading light for women in the entertainment industry.*

*[2] But the author will need to use every trick in Harry Potter’s magic book to handle the growing outrage in Hollywood over her decision to stand by the casting of JOHNNY DEPP, left, in the lead role in her precious Fantastic Beasts franchise, The Crimes of Grindelwald.*

*[3] There’s a significant backlash in the #MeToo and Time’s Up movements because the author is hell-bent on backing her famous pal – despite his inexcusable behaviour towards ex-wife AMBER HEARD.*

*[4] Rowling, right, is proving herself to be the worst type of Hollywood Hypocrite here.*

*[5] Her claim that she is “genuinely happy” to have Depp star as the central character - dark wizard Gellert Grindelwald - in her big-budget film sequel offers him total rehabilitation in the eyes of the movie industry.*

*[6] She is condoning behaviour she would be slamming on social media if it was a male executive making the same decision.*

*[7] So let me be very clear for the benefit of an apparently unaware Ms Rowling: Overwhelming evidence was filed to show Johnny Depp engaged in domestic violence against Amber Heard. She was granted a restraining order after alleging*

*Depp assaulted her following a drunken argument and submitted photos to the court showing her bruised face, inset left.*

*[8] Heard – backed up by numerous friends on the record – recounted a detailed history of domestic abuse incidents, some of which had led to her fearing for her life.*

*[9] According to the court documents, there were kicks, punches, shoves and “all-out assault”.*

*[10] While Depp’s high powered friends accused Heard of simply seeking a pay-out, she proved them wrong by committing to donate ALL of the £5million she received from him to charity.*

*[11] If Rowling is the supporter of women’s rights she claims, has she been blinded by a personal friendship with Depp?*

*[12] After all, she coveted him enough to have spent £22million buying his old yacht, which, ironically, Depp renamed for Heard.*

*[13] Rowling is a powerful figure, who likes to slaughter anyone who dares publicly question her morals or decisions. But today two members of #Me Too/Time’s Up – both victims of HARVEY WEINSTEIN– go public to question her decision.*

*[14] In a message to Rowling, actress CAITLIN DULANY says: “We would like to see things change in this industry and not see people who have allegedly victimised women.*

*[15] “It is not much of a change if you are seeing people rewarded with roles. Amber has been through a difficult time with him.*

*[16] “But it seems like what happened hasn’t really affected Johnny.*

*[17] “We would like to see things change and this is an example of that not happening.*

*[18] “I would hope for different role models than someone who has that kind of history. It is important when you are casting.”*

*[19] Actress KATHERINE KENDALL adds: “I don’t stand behind hitting people or abusing people. It seems that Amber got hurt.*

[20] *"As someone who has been the victim of sexual abuse and a supporter of #MeToo and telling my story to help others, I cannot advocate violence.*

[21] *"I think it is a confusing message to put people in roles that are aimed at children and young people if there is a suggestion they have done something of that nature."*

[22] *So today I publish five questions Rowling MUST answer:*

- 1. Do you take domestic violence accusations as seriously as sexual harassment given your support of the #MeToo movement?*
- 2. If so, do you believe Amber Heard's detailed 2016 court filing detailing abuse allegations by Johnny Depp, which included pictures showing her injuries and on-the-record accounts by other witnesses?*
- 3. Why did Depp agree to pay £5million as a settlement, including a confidentiality agreement, if there was no truth to the allegations?*
- 4. You admitted last year there were "legitimate questions" about Depp's casting. What were these and how did you overcome them?*
- 5. Heard appeared to suggest on Instagram you had taken her divorce statement "out of context" to defend Depp's casting. Have you spoken to her directly?*

[23] *Warner Bros releases the Depp-fronted film in November.*

[24] *While Rowling has an inability to ever admit she's made a mistake, it is not too late for a last-minute recasting. It would cost millions, but Rowling has the money.*

[25] *I believe it is the only decision that would show she's a woman of true character and principle, even when her famous friends are involved."*

9. The Hardcopy Article was read by millions of readers in this jurisdiction. The first sentence of paragraph 2 above is repeated.

### **Meaning**

10. In their natural and ordinary meaning the words in both the Online and Hardcopy Articles meant and were understood to mean that:
  - the Claimant was guilty, on overwhelming evidence, of serious domestic violence against his then wife, causing significant injury and leading to her fearing for her life, for which the Claimant was constrained to pay no less than £5 million to compensate her, and which resulted in him being subjected to a continuing court restraining order; and for that reason is not fit to work in the film industry.

### **Serious Harm/Damage**

11. The publication of the words complained of in the Online and Hardcopy Articles has caused serious harm to the Claimant's personal and professional reputation. In addition to relying on the seriousness of the meaning and the huge extent of publication, the Claimant will rely on the effect of accusations of violence against women in the context of the widely known #MeToo/Time's Up movements. The inclusion of quotes, or purported quotes from women described as victims of Harvey Weinstein, (the subject of high profile and serious criminal allegations) demonstrate that the very likely intended effect of the Articles was to finish the Claimant's career.
12. In addition to the reputational harm caused to the Claimant, the Claimant has been caused significant distress and embarrassment by the publication of the words complained of.
13. In support of his claim for damages the Claimant will rely on the following matters

- 13.1. The “restraining order” referred to in the Online and Hardcopy Articles consisted of Temporary Restraining Orders obtained ex parte. The Temporary Restraining Orders were terminated and Ms Heard’s Request for Restraining Orders was dismissed with prejudice on 16 August 2016. The Defendants knew or should have known about the fact that the Restraining Orders had been terminated because the First Defendant published an article on the Website on 17 August 2016 reporting the fact that Ms Heard’s Request had been dismissed with prejudice and included in that article a photograph of the Order terminating the Temporary Restraining Orders.
- 13.2. The Online and Hardcopy Articles failed to include any denial by the Claimant in relation to Ms Heard’s allegations, notwithstanding that previous articles published by the First Defendant had reported those denials, including an article dated 28 May 2016 written by the Second Defendant.
- 13.3. The First Defendant had previously reported that the police who attended an alleged incident at the Claimant’s and Ms Heard’s home, issued the following statement:
- “On May 21, police responded to a domestic incident radio call.  
“The person reporting did not insist on a report nor was there any evidence provided by the victim that warranted a report.  
“Officers conducted an investigation and determined that a crime did not occur. The officers cleared the scene and left a business card.”*
- 13.4. However, rather than including this information, or any reference to the police testimony which contradicted the evidence of Ms Heard and her witnesses in the Online and Hardcopy Articles, the Defendants chose to omit it and present a wholly one-sided and unfair account of the evidence.



13.5 The Online and Hardcopy Articles contained misquoted and/or out of context “quotes” from Katherine Kendall, a #MeToo/Time’s Up victim. Following publication, Ms Kendall contacted the journalist who had interviewed her, asserting that she had been misquoted and stating *inter alia*: “I’m telling you that you misquoted me and intentionally took things I said out context in what I now realize was your purpose in defaming Johnny Depp. I told you I have heard Amber had hit him, which is why as you know I don’t condone “any” violence”. You have improperly tried to use the #metoo movement for your purposes by using me in this way.” The Defendants failed to correct the Online Article in light of Ms Kendall’s objections to being misquoted.

14. Unless restrained the Defendants and each of them will further publish the words complained of or similar words defamatory of the Claimant.

**AND the Claimant claims:**

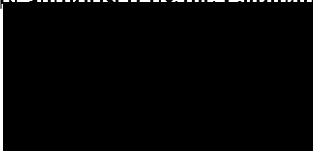
- (1) Damages for libel.
- (2) An injunction to restrain the First Defendant whether by its directors, servants or agents or otherwise howsoever and the Second Defendant whether by himself, his servants or agents or otherwise howsoever from publishing or causing to be published the said or any similar words defamatory of the Claimant.

**JAMES PRICE QC  
VICTORIA JOLLIFFE**

**STATEMENT OF TRUTH**

The Claimant believes that the facts stated in these Particulars of Claim are true.

I am duly authorised by the Claimant to sign this statement.

Signed.  .....

Name: OLGA BISCHOF  
Position: Partner of Brown Rudnick LLP  
Dated: 13 June 2018

Served this 13<sup>th</sup> day of March 2018 by Brown Rudnick LLP Solicitors on behalf of the Claimant